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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/727,026

12/02/2003

Andrew J. Ouderkirk

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02/07/2006

3M INNOVATIVE PROPERTIES COMPANY

PO BOX 33427

ST. PAUL, MN 55133-3427

EXAMINER

QUARTERMAN, KEVIN J

ART UNIT

PAPER NUMBER

2879

DATE MAILED: 02/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 10/727,026	Applicant(s) OUDERKIRK ET AL	
	Examiner Kevin Quarterman	Art Unit 2879	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) 34-39 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7, 12-17 and 33 is/are rejected.
- 7) ☒ Claim(s) 8-11 and 18-32 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 December 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|----------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>1104:0805:1205a:1205b</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Claims 34-39 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 12 January 2006.
2. Applicant's election with traverse of Group I, claims 1-33, in the reply filed on 12 January 2006 is acknowledged. The traversal is on the ground(s) that upon allowance of the elected Group I claim, the non-elected Group II claims be rejoined. The Examiner advises applicant that the claims to the non-elected invention should be amended during prosecution to require the limitations of the elected invention. Failure to do so may result in a loss of the right to rejoinder (MPEP § 821.04).

Drawings

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference characters not mentioned in the description: Reference characters 84 of Fig. 9; 310 of Fig. 14; 512 of Fig. 16; 612 of Fig. 17; 810, 818, 820, and 824 of Fig. 19; 910, 912, 920, and 924 of Fig. 20; 1010, 1020, and 1024 of Fig. 21. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if

only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

4. Claim 20 is objected to because of the following informalities: It appears that claim 20 should depend upon claim 18, since the first citation of a second multilayer reflector is in claim 18. Thus, claim 20 lacks antecedent basis for "the second multilayer reflector." Appropriate correction is required.

Double Patenting

5. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

6. A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double

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patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

7. Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

8. Claims 1-4, 7, and 12-13, are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-3 and 9 of copending Application No. 10/727,072 ('072). Although the conflicting claims are not identical, they are not patentably distinct from each other as shown in Table 1.

9. This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Table 1

Instant Application	Pub. No. '072	Discussion of Differences
Claim 1	Claim 1	Claim 1 of Pub. '987 includes has more structure than claim 1 of the instant application.
Claim 2	Claim 2	Same as above for claim 1
Claim 3	Claim 3	Same as above for claim 1
Claim 4	Claim 1	Claim 4 of the instant application cites an excitation light comprising UV light. The Examiner notes that the actual light emitted by the LED is not a structural limitation.
Claim 7	Claim 9	Same as above for claim 1
Claim 12	Claim 1	Claim 12 of the instant application cites the polymeric material resists degradation when exposed to UV light. The Examiner notes that apparatus claims cover what a device is, not what a device does (MPEP § 2114).
Claim 13	Claim 2	Claim 13 of the instant application cites a polymeric material substantially free of inorganic materials. Claim 2 of Pub. '072 does not mention any inorganic materials being included in the polymeric material.

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10. Claims 5-6, 14-17, and 33 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of copending Application No. 10/727,072 ('072) in view of McNulty US 6,686,676 ('676), as shown in Table 2.

11. This is a provisional obviousness-type double patenting rejection.

Table 2

Instant Application	Pub. No. '072	McNulty '676	Discussion of Differences
Claim 5	Claim 1	Fig. 5	Claim 1 of Pub. '072 does not cite the reflector as being a concave reflector. Figure 5 of McNulty shows a concave multilayer reflector (70) in a light source for reducing the amount of UV radiation emission (abstract).
Claim 6	Claim 1	Fig. 5	Claim 1 of Pub. '072 does not cite the reflector as being a hemispherical concave reflector. Figure 5 of McNulty shows a hemispherical concave multilayer reflector (70) in a light source for reducing the amount of UV radiation emission (abstract).
Claim 14	Claim 1	Fig. 5	Claim 1 of Pub. '072 does not cite a discontinuous layer of phosphor material. Figure 5 of McNulty shows a discontinuous layer of phosphor material (22) for converting UV radiation into visible light.
Claim 15	Claim 1	Fig. 5	Claim 1 of Pub. '072 does not cite a plurality of dots of phosphor material. Figure 5 of McNulty shows a plurality of dots of phosphor material (26) for converting UV radiation into visible light.
Claim 16	Claim 1	Fig. 5	McNulty does not disclose each dot having an area of less than 1000 microns ² . The Examiner notes that discovering the optimum range involves only routine skill in the art (MPEP § 2144.05)
Claim 17	Claim 1	Fig. 5	McNulty does not disclose the phosphor material emitting red, green, and blue light. The Examiner notes that the emitted light by the phosphor material is not a structural limitation (MPEP § 2114).
Claim 33	Claim 1	Fig. 5	McNulty does not disclose the particular light emitted by the phosphor dots. The Examiner notes that the emitted light by the phosphor dots is not a structural limitation (MPEP § 2114).

Allowable Subject Matter

12. Claims 8-11 and 18-32 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

13. The following is a statement of reasons for the indication of allowable subject matter: Regarding claim 8, the prior art of record neither shows or suggests a light source comprising, in addition to other limitations of the claim, a first non-planar flexible multilayer reflector having a non-uniform thickness. Due to their dependency upon claim 8, claims 9-11 are also allowable.

14. Regarding claim 18, the prior art of record neither shows or suggests a light source comprising, in addition to other limitations of the claim, a second multilayer reflector disposed between the LED and the phosphor material. Due to their dependency upon claim 18, claims 19-32 are also allowable.

Contact Information

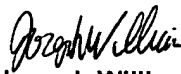
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin Quarterman whose telephone number is (571) 272-2461. The examiner can normally be reached on M-TH (7-5:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nimesh Patel can be reached on (571) 272-2457. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kevin Quarterman
Examiner
Art Unit 2879

kq 
6 February 2006


Joseph Williams
Primary Examiner
Art Unit 2879